

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WILLIAN BARBOZA,

Plaintiff,

-versus-

DETECTIVE STEVEN D'AGATA, sued in his
individual capacity and POLICE OFFICER
MELVIN GORR sued in his individual capacity,

Case No. 13 CV 4067 (CS)

Defendants.

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NOTICE OF CONSTITUTIONAL CHALLENGE TO A STATE STATUTE

Pursuant to Federal Rule of Civil Procedure 5.1(a), the plaintiff provides notice that the Complaint in this case calls into question the constitutionality of New York State Penal Law § 240.30(1)(a). The plaintiff has brought this case in part seeking a declaration in the course of a liability finding that Penal Law § 240.30(1)(a), under which he was arrested and prosecuted, is unconstitutional as applied to his speech and on its face insofar as it criminalizes “annoying” or “alarming” speech.

The plaintiff will serve this Notice and the Complaint on the New York State Attorney General as required under Rule 5.1(a), and will additionally be seeking certification by the Court under 28 U.S.C. § 2403(b) and Rule 5.1(b).

Dated: August 7, 2013

Respectfully submitted,

/s Mariko Hirose
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DANIEL MULLKOFF
COREY STOUGHTON
CHRISTOPHER DUNN

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